

1 EDMUND G. BROWN JR.
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 WILLIAM A. BUSS
Deputy Attorney General
4 State Bar No. 134958
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2039
7 Facsimile: (619) 645-2012
Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2010-500**

12 **MELISSA RAE BOWLDS**
13 **5841 Bari Ct., #D**
14 **La Mesa, CA 91942**

ACCUSATION

15 **Registered Nurse License No. 704022**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
22 of Consumer Affairs.

23 2. On or about May 29, 2007, the Board of Registered Nursing issued Registered Nurse
24 License Number 704022 to Melissa Rae Bowlds (Respondent). The Registered Nurse License
25 was in full force and effect at all times relevant to the charges brought herein and will expire on
26 June 30, 2011, unless renewed.

27 ///

28 ///

1 JURISDICTION

2 3. This Accusation is brought before the Board of Registered Nursing (Board),
3 Department of Consumer Affairs, under the authority of the following laws. All section
4 references are to the Business and Professions Code unless otherwise indicated.

5 4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent
6 part, that the Board may discipline any licensee, including a licensee holding a temporary or an
7 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
8 Nursing Practice Act.

9 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
10 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
11 licensee or to render a decision imposing discipline on the license. Under section 2811,
12 subdivision (b), an expired license may be renewed at any time within eight years after expiration.

13 STATUTORY PROVISIONS

14 6. Section 482 of the Code states:

15 "Each board under the provisions of this code shall develop criteria to evaluate the
16 rehabilitation of a person when:

17 "(a) Considering the denial of a license by the board under Section 480; or

18 "(b) Considering suspension or revocation of a license under Section 490.

19 "Each board shall take into account all competent evidence of rehabilitation furnished by
20 the applicant or licensee."

21 7. Section 490 of the Code provides, in pertinent part, that a board may suspend or
22 revoke a license on the ground that the licensee has been convicted of a crime substantially
23 related to the qualifications, functions, or duties of the business or profession for which the
24 license was issued.

25 8. Section 493 of the Code states:

26 "Notwithstanding any other provision of law, in a proceeding conducted by a board within
27 the department pursuant to law to deny an application for a license or to suspend or revoke a
28 license or otherwise take disciplinary action against a person who holds a license, upon the

1 ground that the applicant or the licensee has been convicted of a crime substantially related to the
2 qualifications, functions, and duties of the licensee in question, the record of conviction of the
3 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
4 and the board may inquire into the circumstances surrounding the commission of the crime in
5 order to fix the degree of discipline or to determine if the conviction is substantially related to the
6 qualifications, functions, and duties of the licensee in question.

7 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
8 'registration.'"

9 9. Section 2761 of the Code states:

10 "The board may take disciplinary action against a certified or licensed nurse or deny an
11 application for a certificate or license for any of the following:

12 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

13 "....

14 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
15 functions, and duties of a registered nurse, in which event the record of the conviction shall be
16 conclusive evidence thereof."

17 "..."

18 10. Section 2762 of the Code states:

19 "In addition to other acts constituting unprofessional conduct within the meaning of this
20 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
21 chapter to do any of the following:

22 "....

23 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
24 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
25 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
26 himself or herself, any other person, or the public or to the extent that such use impairs his or her
27 ability to conduct with safety to the public the practice authorized by his or her license.

"(c). Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof."

REGULATIONS

11. California Code of Regulations, title 16, section 1444, states:

"A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

"(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

"(b) Failure to comply with any mandatory reporting requirements.

"(c) Theft, dishonesty, fraud, or deceit.

"(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code."

12. California Code of Regulations, title 16, section 1445 states in pertinent part:

“ ”

"(b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

“(1) Nature and severity of the act(s) or offense(s).

"(2) Total criminal record.

"(3) The time that has elapsed since commission of the act(s) or offense(s).

"(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

1 “(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the
2 Penal Code.

3 “(6) Evidence, if any, of rehabilitation submitted by the licensee.”

4 **COST RECOVERY**

5 13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
6 administrative law judge to direct a licensee found to have committed a violation or violations of
7 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
8 enforcement of the case.

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(May 20, 2008, Conviction for DUI on December 7, 2007)**

11 14. Respondent is subject to disciplinary action under sections 490 and 2761,
12 subdivision (f), in that Respondent was convicted of a crime substantially related to the
13 qualifications, functions and duties of a registered nurse. On or about May 20, 2008, in the
14 Superior Court, County of San Diego, in the case entitled *The People of the State of California v.*
15 *Melissa R. Bowlds*, case number M037900, Respondent was convicted by the Court by her plea of
16 guilty to violating Vehicle Code section 23103, subdivision (a) per Vehicle Code section 23013.5,
17 reckless driving - DUI reduction. The circumstances are as follows:

18 15. On or about December 7, 2007, a San Diego Police Department officer observed
19 Respondent driving inordinately slow, with other drivers honking at her. The officer drove
20 behind Respondent and activated his emergency lights. After about 150 yards, Respondent began
21 yielding to the right. They were approaching the intersection of Villa La Jolla Drive and Nobel
22 Drive, when Respondent attempted to stop at the northwest corner of the intersection. As
23 Respondent was moving to the right, she just missed hitting the last parked car on the west side of
24 the street. She stopped at the west curb of Villa La Jolla, then continued south, and then turned
25 west onto Nobel Drive. As Respondent was making her right turn, she drove over the curb and
26 then stopped in a private parking lot in a condo complex.

27 a. When questioned by the officer repeatedly, Respondent admitted she had been
28 drinking. Respondent failed to complete field sobriety tests as instructed. She was arrested for

1 driving under the influence and was booked into Las Colinas jail. A breath test administered
2 yielded results of .12% blood alcohol by weight.

3 b. As a result of the conviction, sentence was suspended for three years, summary
4 probation was granted on conditions including not to violate any laws (minor traffic violations are
5 excepted), pay various fines and fees, Standard Alcohol Conditions (VC 23600), enroll and
6 complete a First Conviction Program and Mothers Against Drunk Drivers (MADD).

7 SECOND CAUSE FOR DISCIPLINE

8 (Use of Alcohol to an Extent Dangerous to Self and Others)

9 16. Respondent is subject to disciplinary action under Code section 2762, subdivision (b),
10 in that she used alcohol to an extent dangerous to herself and others as is detailed in paragraph 15
11 above, which is incorporated herein by this reference.

12 THIRD CAUSE FOR DISCIPLINE

13 (Criminal Conviction Involving the Consumption of Alcohol)

14 17. Respondent's license is subject to discipline under Code section 2762,
15 subdivision (c), in that Respondent was convicted of a criminal offense involving the
16 consumption of alcohol as is detailed in paragraph 15 above, which is incorporated herein by this
17 reference.

18 DISCIPLINE CONSIDERATIONS

19 18. In order to assess the discipline to be imposed, Complainant further alleges that on or
20 about April 6, 2007, Respondent was convicted of a violation of Vehicle Code section 23152,
21 subdivision (b) (DUI Alcohol 0.08 or more). Summary probation was granted for three years,
22 Respondent was not to violate any laws, pay various fines and fees, given credit for one day
23 custody time served, not to drive with any alcohol/drugs in her system, submit to any test at the
24 request of a peace officer for detection of alcohol/drugs in her system, attend and complete a first
25 conviction program for three months, attend a MADD Impact Panel and not drive without a valid
26 license and liability insurance.

27 ///

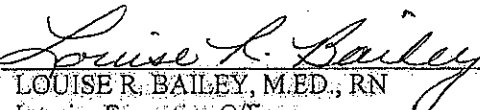
28 ///

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 704022, issued to Melissa Rae Bowlds;
2. Ordering Melissa Rae Bowlds to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: 4/13/10


LOUISE R. BAILEY, M.D., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SD2009805243
80439219.doc